

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X		
RACKY RAMCHAIR,	:	
	:	
Petitioner,	:	
	:	
- against -	:	<u>ORDER</u>
	:	
JAMES CONWAY, Superintendent,	:	04-CV-4241(JG)
Attica Correctional Facility,	:	
	:	
Respondent.	:	
-----X		

JOHN GLEESON, United States District Judge:

On April 7, 2008 the Clerk of Court entered judgment ordering respondent to release petitioner within 45 days of my Memorandum and Order of April 4, 2008, unless the State declared its intention to retry petitioner within those 45 days. At respondent's request, the order was stayed until January 1, 2009, and the judgment was later vacated by the Second Circuit's summary order of June 30, 2009. The judgment, however, was reinstated by the Second Circuit's April 2, 2010 order affirming the judgment. The order affirming the judgment was effective on April 2, because the panel directed that the mandate issue forthwith. *See* Fed. R. App. P. 41(b). In a letter filed on June 22, 2010 – 81 days after the judgment was reinstated – the District Attorney declared his intention to retry petitioner.

In light of the delay, respondent is ordered to show cause in writing on or before July 6, 2010 why the State should not be precluded from retrying petitioner. Petitioner's reply is due July 13, 2010.

So ordered.

John Gleeson, U.S.D.J.

Dated: June 23, 2010  
Brooklyn, New York